

PATENT COOPERATION TREATY

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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITYTo:
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WESTFORD, VT 05494

PCT

WRITTEN OPINION

(PCT Rule 66)

Applicant's or agent's file reference		Date of Mailing (day/month/year)
932CAL-PCT		REPLY DUE within 2 months/days from the above date of mailing
International application No.	International filing date (day/month/year)	Priority date (day/month/year)
PCT/US00/28624	16 October 2000 (16.10.2000)	18 October 1999 (18.10.1999)
International Patent Classification (IPC) or both national classification and IPC		
IPC(7): F24J 02/04, 02/42 and US Cl.: 126/617, 569, 646, 643, 664, 665, 673, 651, 667, 669, 671, 673, 670, 672; 404/71; 165/167, 48.2, 46, 56, 47, 172, 177, 181, 183		
Applicant		
CALDERA CORPORATION		

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 18 February 2002 (18.02.2002).Name and mailing address of the IPEA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231
Facsimile No. (703)305-3230

Authorized officer

Sara Clarke

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Form PCT/IPEA/408 (cover sheet)(July 1998)

WRITTEN OPINION

International application No.

PCT/US00/28624

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I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-16 _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- ☒ the claims:
 pages 17-20 _____, as originally filed
 pages 20A-20E _____, as amended (together with any statement) under Article 19
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- ☒ the drawings:
 pages 1-4 _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages NONE _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE _____
- ☐ the claims, Nos. NONE _____
- ☐ the drawings, sheets/fig NONE _____

5. ☒ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.
PCT/US00/28624

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims 1-12,19,23-43,45-57 and 60	YES
	Claims 13-18,20-22,58 and 59	NO
Inventive Step (IS)	Claims 1-12,19,25-43 and 45-57	YES
	Claims 13-18,20-24 and 58-60	NO
Industrial Applicability (IA)	Claims 1-43 and 45-60	YES
	Claims NONE	NO

2. CITATIONS AND EXPLANATIONS

Claims 13-18 and 20-22 lack novelty under PCT Article 33(2) as being anticipated by Frasnetti et al. (EP 773409). Frasnetti et al. discloses the invention as claimed including a user interface 9.

Claim 23 lacks an inventive step under PCT Article 33(3) as being obvious over Frasnetti et al. in view of Akamatsu (US 5429111). Frasnetti et al. discloses the invention substantially as claimed with the exception of an audible annunciator. Akamatsu also discloses a gas burner and teaches the use of a speaker 38 for the purpose of providing further indication of the operation of the system. The types of annunciators listed are well-known. Thus, it would not have involved inventive step to have provided the burner of Frasnetti et al. with the speaker disclosed by Akamatsu for the purpose of providing further indication of the operation of the system.

Claim 24 lacks an inventive step under PCT Article 33(3) as being obvious over Frasnetti et al. in view of Croucher et al. (US 5892201). Frasnetti et al. discloses the invention substantially as claimed with the exception of a resistive hot-surface igniter. Croucher et al. discloses a resistive hot-surface igniter which can be used with stoves with a relatively low voltage. Thus it would not have involved inventive step to provide the burner of Frasnetti et al. with type of igniter disclosed by Croucher et al. for the purpose of producing a flame with a relatively low voltage.

Claim 58 lacks novelty under PCT Article 33(2) as being anticipated by Damrath et al. (US 5938425). Damrath discloses the invention as claimed including two different control mechanisms. See Fig. 5.

Claim 59 lacks novelty under PCT Article 33(2) as being anticipated by Barker (US 3469590). Barker discloses the invention as claimed including first and second electronically controlled mechanisms C and V.

Claim 60 lacks an inventive step under PCT Article 33(3) as being obvious over Barker in view of Frasnetti et al. (US 5924857). Barker discloses the invention substantially as claimed with the exception of a display. Frasnetti et al. discloses a burner and teaches the use of a display 12. Thus, it would not have involves inventive step to provide the burner of Barker with a display as taught by Frasnetti et al. for the purpose of providing an indication of the chosen power level.

Claims 1-12, 19, 25-43, and 45-57 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a cooktop capable of the two alternative modes (or on-levels) as set forth in claims 1 and 25.

US 5,938,425 A (DAMRATH et al) 17 August 1999, see Fig. 5.

US 5,892,201 A (CROUCHER et al) 06 August 1999, see column 1.

US 5,429,111 A (AKAMATSU) 04 July 1995, see Fig. 2.

US 3,469,590 A (BARKER) 30 September 1969, see Fig. 1.

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International application No.
PCT/US00/28624

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

Continuation of Section I. Basis of the opinion, Item 5

The amendment of the description/claim filed May 17, 2001, is objected to under PCT Article 34(2)(b) because it adds matter into the application that goes beyond the disclosure as originally filed. The added matter which is new is as follows: Claim 44 has not been considered because the original disclosure does not provide for a hot wire igniter.